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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,784	04/13/2001	Naoto Kinjo	Q63868	1919
7590	10/14/2005		EXAMINER	
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 PENNSYLVANIA AVENUE, N.W. WASHINGTON, DC 20037-3213			PERUNGAVOOR, SATHYANARAYA V	
			ART UNIT	PAPER NUMBER
			2625	

DATE MAILED: 10/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/833,784	KINJO, NAOTO	
	Examiner	Art Unit	
	Sath V. Perungavoor	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 August 2005.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5 and 18-28 is/are pending in the application.
 4a) Of the above claim(s) 18-23 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-4 and 24-28 is/are rejected.
 7) Claim(s) 5 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08/31/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant(s) Response to Official Action

[1] The response filed on August 8, 2005 has been entered and made of record.

Response to Arguments

[2] Applicant's arguments filed on August 8, 2005 have been fully considered but they are not persuasive. Examiner's response to the presented arguments follows below.

Objection to the Specification

Summary of Arguments:

Applicant amends the title to overcome the objection. Accordingly, applicant requests the withdrawal of the objection.

Examiner's Response:

Agreed. Examiner withdraws the previously made objection.

Claim Rejections - 35 USC § 103

Summary of Arguments:

Regarding claim 1, Applicant argues the following:

1. "There is nothing in Schaffer which suggests that the exposure parameters and the other parameters are image processing conditions in the context of selecting image processing conditions corresponding to said identified specific person to perform the image processing based on said selected image processing conditions"

2. It is not obvious to modify Shaffer as suggested by the Examiner, since Examiner provides not motivation for the modification and uses hindsight reasoning.

Accordingly, applicant requests the withdrawal of the rejections.

Examiner's Response:

Examiner respectfully disagrees.

Regarding claim 1, Examiner contends the following:

1. Schaffer discloses the following as applied to claim 1:
 - a. Exposure parameters being associated with each customer (i.e. specific person) [*Column 4 Lines 32-52*].
 - b. Exposure parameters being stored in meta-data (i.e. registering) [*Column 4 Lines 32-41*].
 - c. Meta-data being used to adjust processing goals for image processing to be performed for the customer [*Column 5 Lines 22-32*].
 - d. During processing customer profile (i.e. identified specific person) is used to identify the type of processing to be performed (i.e. to associate with the meta-data and translate from product goals into system goals) [*Column 5 Lines 46-62*]. That is, the customer profile (i.e. selecting ... corresponding to said identified person) discloses the type of desired output and the meta-data (i.e. image processing conditions associated with the specific person) discloses the image characteristics, these two are used as inputs in the processing (i.e.

image processing based on said selected image processing conditions).

- e. Hence, it can be seen that exposure parameters (meta-data) are in fact used to context with the selecting step of claim 1.
2. Examiner directs the applicant to Shaffer at Column 5 Lines 54-62, where it can be seen that face feature vectors are a part of the customer profile, which is used to identify a person. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Accordingly, Examiner maintains the rejections.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[3] Claims 1-4 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al. (hereinafter “Shaffer”) [Previously cited].

Regarding claim 1, Shaffer discloses an image processing method for applying image processing to an inputted image data, comprising the steps of: registering predetermined image processing conditions (e.g. exposure parameters) for each specific person (customer) in advance [*Column 4, Lines 32-52*]; extracting a person in said inputted image data [*Column 6, Lines 30-44*]; identifying the extracted person to find if the extracted person is the specific person [*Column 7, Lines 39-46; Column 8, Lines 33-49*]; and selecting image processing conditions corresponding to said identified specific person to perform the image processing based on said selected image processing conditions [*Column 4, Lines 32-52; Column 5, Lines 22-62*]. Shaffer does not explicitly disclose that the customer is the person that is extracted from the image and identified for the purpose of selecting image processing conditions, but the customer/user profile that is stored includes customer identification, exposure parameters, face recognition feature vectors of the immediate family and extended family, etc. that could obviously be used to associate each person with his or her own image processing conditions [*Column 5, Lines 54-62*]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select image processing conditions corresponding to a person identified in an input image in order to process the image based on the identified person’s specifications [*Column 4, Lines 37-52; Column 5, Lines 39-62*].

Regarding claim 2, Shaffer discloses that the extracted person is identified using a face image of said specific person registered in advance or person designation information (customer profile) accompanying a photographed frame [*Column 5, Lines 54-62; Column 6, Lines 37-42; Column 7, Lines 42-46; Column 8, Lines 40-49*].

Regarding claim 3, Shaffer discloses that a plurality of kinds of image processing conditions (exposure parameters, Advanced Photo System IX data, meta data, desired output product or product type, face recognition feature vectors) are set for said each specific person (customer) as said predetermined image processing conditions to be registered for said each specific person in advance [*Column 4, Lines 37-52; Column 5, Lines 26-62*].

Regarding claim 4, Shaffer discloses that said image processing is performed by using at least one image processing condition selected from said plurality of kinds of image processing conditions [*Column 4, Line 53-Column 5, Line 21; Column 7, Lines 6-46*].

Regarding claim 24, Shaffer discloses the image processing method according to claim 1, wherein said inputted image data is image data of an image and said image processing under said selected image processing conditions is applied to said image data of said image [*Column 5 Lines 32-34; Column 9 Lines 3-20*].

Regarding claim 25, Shaffer discloses the image processing method according to claim 1, wherein the image processing conditions comprises at least one of adjustment of density of a body part, adjustment of tint of a body part, and slim body finish [*Column 9 Lines 3-20*].

Regarding claim 26, Shaffer discloses the image processing method according to claim 1, wherein the image processing conditions comprises at least one of adjustment of density of a body part, adjustment of tint of a body part, slim body finish, filtering, soft focus finish, and image composition [*Column 9 Lines 3-20*].

Regarding claim 27, Shaffer discloses the image processing method according to claim 1, wherein the image processing conditions are unique to each specific person [*Column 4 Lines 32-52: Exposure parameters vary with customers.*].

Regarding claim 28, Shaffer discloses the image processing method according to claim 1, wherein the step of registering predetermined image processing conditions for each specific person in advance comprises: storing a plurality of extraction information corresponding to a plurality of persons, wherein each one of the plurality of extraction information uniquely correspond to one of the plurality of persons [*Column 6 Lines 30-45*].

Allowable Subject Matter

[4] Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 5 contains subject matter not found in the prior art of record including setting whether image processing under the selected image processing conditions is applied

to an image as a whole or applied only to the person or the person and a vicinity of the person.

Conclusion

[5] **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

[6] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Sath V. Perungavoor whose telephone number is (571) 272-7455. The examiner can normally be reached on Monday to Friday from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Bhavesh M. Mehta whose telephone number is (571) 272-7453, can be reached on Monday to Friday from 9:00am to 5:00pm. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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